54 Cal. 339; *Ralston* v. *Bank of California,* 112 Cal. 208; *Daggett* v. *Davis,* 53 Mich. 35; *Budd* v. *Multnomah Co.,* 12 Ore 271; *Rio Grande Co.* v. *Burns, Walker & Co.,* 82 Tex. 50.

CORPORATIONS—CARE REQUIRED OF CORPORATE DIRECTORS.—A director of a Building and Loan Association, recommended a loan on property already incumbered by a mortgage under his control in his personal capacity. He made no inquiry in regard to the property and was ignorant that it was the same property which was incumbered. An article of the Association stated that "No money shall be loaned on property already incumbered." There was no charge, nor proof of fraud, embezzlement, or wilful misconduct nor breach of trust for the beenfit of the director, nor a mistake of judgment but mere inattention and negligence which made possible fraud perpetrated by another officer of the Association. *Held,* that the director was guilty of such negligence as renders him liable for the loss which was occasioned to the Association by the reason of his failure to act. *Four Corners Building & Loan Association of Newark* v. *Schwarzwaelder* (N. J. Chancery, 1917), 101 Atl. 564.

This case broadens the scope of the existing law in New Jersey which has been expressed in the cases of *Williams* v. *McKay,* 46 N. J. Eq. 25 and in *Gerhard* v. *Welsh,* 80 N. J. Eq. 203; that the duty of bringing to their office (that of a director), ordinary skill and vigilance was none the less exacting though they were unpaid servants. They became engaged to carry on the business of the corporation in the same way that men of common prudence and skill conduct a similar business for themselves. Honesty of intention will not excuse imprudence or indifference. The instant case goes further and holds that apart from any wilful act, a director is held responsible when he performs an act which under all the circumstances he is bound *not* to perform or that he does not perform an act which under all the circumstances he is bound *to* perform. The United States Supreme Court has given great lee-way to the directors and has held that they are liable only for fraud or for such gross negligence as amounts to fraud. *Briggs* v. *Spaulding,* 141 U. S. 132. Pennsylvania courts have gone further, and have held that where the directors have not sought to make any personal profit there is a strong presumption negativing negligence. They are likened unto a gratuitous bailee who is liable only for failure to exercise a slight degree of care. *Swentzel* v. *Penn. Bank,* 147 Pa. St. 140. The principal case expresses the best line of authority and states the rule to be that such officers must exercise ordinary care, *i. e.,* that care which every man of common prudence and discretion takes of his own concerns. This decision is of great interest to the investor and will act as a stimulus to the market. Cf. *Bank* v. *Hill,* 56 Me. 385; *Marshall* v. *Bank,* 85 Va. 676; *Warren* v. *Robison,* 19 Ut. 289.

CORPORATIONS—MAJORITY OF STOCKHOLDERS ALIEN ENEMIES LIVING IN ENEMY COUNTRY—RIGHT OF CORPORATION TO SUE.—In an action by the plaintiff, a corporation organized under the laws of the state of New Jersey, with 94% of its capital stock owned by a German corporation and a German citizen resident in Germany, defendant filed a motion to stay the plaintiff from fur-

ther prosecuting the action, until the determination of the present war between Germany and the United States, on the ground that the plaintiff was an alien enemy. *Held,* that the motion should be denied because the corporate body is a distinct entity from the alien owners of its stock, and consequently, though of foreign ownership, it is not to be precluded from access to our courts during the period of the war. *Fritz Schulz, Jr. Co.* v. *Raimes & Co.,* 166 N. Y. Supp. 567.

It has become a settled doctrine of corporation law that a corporation, for the purposes for which it may be considered a citizen, resident, or inhabitant (and one of those purposes is to sue and be sued in the courts) is a citizen, resident, or inhabitant of the country or state by or under whose laws it was created or organized, and it can make no difference whatever, in the application of this doctrine, that the members or stockholders are citizens and residents of some other country or state than that to whose laws the corporation owes its existence. See: *Louisville R. R. Co.* v. *Letson,* 2 How. 497; *Marshall* v. *B. & O. R. R. Co.,* 16 How. 314; *St. Louis & San Francisco Ry. Co.* v. *James,* 161 U. S. 545; *Queen* v. *Arnaud,* 16 Law J. Q. B. 50. The court, in the principal case, in reaching the decision that it did, merely confirmed the established doctrine of the law that a corporation is an entity separate and apart from its corporators, and its domicile is as a matter of law within the state of its creation, and the domicile or character of its corporators does not affect the domicile or character of the corporation. The result reached by the New York Supreme Court is, however, in conflict with the result reached by the English House of Lords in the case of *Daimler Co.* v. *Continental Tyre and Rubber Co.,* (1916), 2 A. C. 307, where it was held, on facts practically identical with those in the principal case, that the corporation would be denied the right to appeal to the courts, overruling the decision of the Court of Appeal (1915), (1 K. B. 893) and reaching a conclusion different from that reached in the case of *Amorduct Mfg. Co.* v. *Defries & Co.,* 31 T. L. R. 69, which decisions are in accord with the finding and reasoning in the instant case. But it does not follow that the result of the decision of the House of Lords is to overthrow what has been stated as an established doctrine. That decision is not based on any argument that that doctrine is unsound, but it is based upon the fact that the Lords were convinced that the Continental Tyre and Rubber Co. was in fact adhering to, taking instructions from, or acting under the control of, enemies *in the enemy country,* so as to impose an enemy character on the company itself, and thus prevent it from appealing to the courts. In the principal case, the court came to the conclusion that the Fritz Schulz Co. was in the control of residents of this country, and therefore did not feel constrained to impose an enemy character upon it, and deprive it of its right to appeal to the courts. See also *Speidel* v. *Barstow Co.,* 243 Fed. 621. It may be pertinent to observe that the city of New York has never been bombed by Zeppelins.

COVENANTS—RESTRICTIONS—USE FOR RESIDENCE PURPOSES ONLY.—Covenant restricting the use of premises "for residence purposes only." *Held,*